

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 573**

**Representatives Sobecki, Boggs**

**Cosponsors: Representatives Smith, K., Miller, J.**

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**A BILL**

To amend section 4123.68 of the Revised Code to 1  
make COVID-19 an occupational disease under the 2  
Workers' Compensation Law under certain 3  
circumstances and to declare an emergency. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 4123.68 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 4123.68.** Every employee who is disabled because of 7  
the contraction of an occupational disease or the dependent of 8  
an employee whose death is caused by an occupational disease, is 9  
entitled to the compensation provided by sections 4123.55 to 10  
4123.59 and 4123.66 of the Revised Code subject to the 11  
modifications relating to occupational diseases contained in 12  
this chapter. An order of the administrator issued under this 13  
section is appealable pursuant to sections 4123.511 and 4123.512 14  
of the Revised Code. 15

The following diseases are occupational diseases and 16  
compensable as such when contracted by an employee in the course 17  
of the employment in which such employee was engaged and due to 18

the nature of any process described in this section. A disease 19  
which meets the definition of an occupational disease is 20  
compensable pursuant to this chapter though it is not 21  
specifically listed in this section. 22

SCHEDULE 23

Description of disease or injury and description of 24  
process: 25

(A) Anthrax: Handling of wool, hair, bristles, hides, and 26  
skins. 27

(B) Glanders: Care of any equine animal suffering from 28  
glanders; handling carcass of such animal. 29

(C) Lead poisoning: Any industrial process involving the 30  
use of lead or its preparations or compounds. 31

(D) Mercury poisoning: Any industrial process involving 32  
the use of mercury or its preparations or compounds. 33

(E) Phosphorous poisoning: Any industrial process 34  
involving the use of phosphorous or its preparations or 35  
compounds. 36

(F) Arsenic poisoning: Any industrial process involving 37  
the use of arsenic or its preparations or compounds. 38

(G) Poisoning by benzol or by nitro-derivatives and amido- 39  
derivatives of benzol (dinitro-benzol, anilin, and others): Any 40  
industrial process involving the use of benzol or nitro- 41  
derivatives or amido-derivatives of benzol or its preparations 42  
or compounds. 43

(H) Poisoning by gasoline, benzine, naphtha, or other 44  
volatile petroleum products: Any industrial process involving 45

the use of gasoline, benzine, naphtha, or other volatile petroleum products.	46 47
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	48 49 50
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	51 52
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	53 54 55 56 57 58
(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	59 60 61 62
(M) Compressed air illness: Any industrial process carried on in compressed air.	63 64
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	65 66
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	67 68 69
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	70 71 72
(Q) Radium poisoning: Any industrial process involving the	73

use of radium and other radioactive substances in luminous	74
paint.	75
(R) Tenosynovitis and prepatellar bursitis: Primary	76
tenosynovitis characterized by a passive effusion or crepitus	77
into the tendon sheath of the flexor or extensor muscles of the	78
hand, due to frequently repetitive motions or vibrations, or	79
prepatellar bursitis due to continued pressure.	80
(S) Chrome ulceration of the skin or nasal passages: Any	81
industrial process involving the use of or direct contact with	82
chromic acid or bichromates of ammonium, potassium, or sodium or	83
their preparations.	84
(T) Potassium cyanide poisoning: Any industrial process	85
involving the use of or direct contact with potassium cyanide.	86
(U) Sulphur dioxide poisoning: Any industrial process in	87
which sulphur dioxide gas is evolved by the expansion of liquid	88
sulphur dioxide.	89
(V) Berylliosis: Berylliosis means a disease of the lungs	90
caused by breathing beryllium in the form of dust or fumes,	91
producing characteristic changes in the lungs and demonstrated	92
by x-ray examination, by biopsy or by autopsy.	93
This chapter does not entitle an employee or the	94
employee's dependents to compensation, medical treatment, or	95
payment of funeral expenses for disability or death from	96
berylliosis unless the employee has been subjected to injurious	97
exposure to beryllium dust or fumes in the employee's employment	98
in this state preceding the employee's disablement and only in	99
the event of such disability or death resulting within eight	100
years after the last injurious exposure; provided that such	101
eight-year limitation does not apply to disability or death from	102

exposure occurring after January 1, 1976. In the event of death 103  
following continuous total disability commencing within eight 104  
years after the last injurious exposure, the requirement of 105  
death within eight years after the last injurious exposure does 106  
not apply. 107

Before awarding compensation for partial or total 108  
disability or death due to berylliosis, the administrator of 109  
workers' compensation shall refer the claim to a qualified 110  
medical specialist for examination and recommendation with 111  
regard to the diagnosis, the extent of the disability, the 112  
nature of the disability, whether permanent or temporary, the 113  
cause of death, and other medical questions connected with the 114  
claim. An employee shall submit to such examinations, including 115  
clinical and x-ray examinations, as the administrator requires. 116  
In the event that an employee refuses to submit to examinations, 117  
including clinical and x-ray examinations, after notice from the 118  
administrator, or in the event that a claimant for compensation 119  
for death due to berylliosis fails to produce necessary consents 120  
and permits, after notice from the administrator, so that such 121  
autopsy examination and tests may be performed, then all rights 122  
for compensation are forfeited. The reasonable compensation of 123  
such specialist and the expenses of examinations and tests shall 124  
be paid, if the claim is allowed, as part of the expenses of the 125  
claim, otherwise they shall be paid from the surplus fund. 126

(W) Cardiovascular, pulmonary, or respiratory diseases 127  
incurred by firefighters or police officers following exposure 128  
to heat, smoke, toxic gases, chemical fumes and other toxic 129  
substances: Any cardiovascular, pulmonary, or respiratory 130  
disease of a firefighter or police officer caused or induced by 131  
the cumulative effect of exposure to heat, the inhalation of 132  
smoke, toxic gases, chemical fumes and other toxic substances in 133

the performance of the firefighter's or police officer's duty 134  
constitutes a presumption, which may be refuted by affirmative 135  
evidence, that such occurred in the course of and arising out of 136  
the firefighter's or police officer's employment. For the 137  
purpose of this section, "firefighter" means any regular member 138  
of a lawfully constituted fire department of a municipal 139  
corporation or township, whether paid or volunteer, and "police 140  
officer" means any regular member of a lawfully constituted 141  
police department of a municipal corporation, township or 142  
county, whether paid or volunteer. 143

This chapter does not entitle a firefighter, or police 144  
officer, or the firefighter's or police officer's dependents to 145  
compensation, medical treatment, or payment of funeral expenses 146  
for disability or death from a cardiovascular, pulmonary, or 147  
respiratory disease, unless the firefighter or police officer 148  
has been subject to injurious exposure to heat, smoke, toxic 149  
gases, chemical fumes, and other toxic substances in the 150  
firefighter's or police officer's employment in this state 151  
preceding the firefighter's or police officer's disablement, 152  
some portion of which has been after January 1, 1967, except as 153  
provided in division (E) of section 4123.57 of the Revised Code. 154

Compensation on account of cardiovascular, pulmonary, or 155  
respiratory diseases of firefighters and police officers is 156  
payable only in the event of temporary total disability, 157  
permanent total disability, or death, in accordance with section 158  
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 159  
hospital, and nursing expenses are payable in accordance with 160  
this chapter. Compensation, medical, hospital, and nursing 161  
expenses are payable only in the event of such disability or 162  
death resulting within eight years after the last injurious 163  
exposure; provided that such eight-year limitation does not 164

apply to disability or death from exposure occurring after 165  
January 1, 1976. In the event of death following continuous 166  
total disability commencing within eight years after the last 167  
injurious exposure, the requirement of death within eight years 168  
after the last injurious exposure does not apply. 169

This chapter does not entitle a firefighter or police 170  
officer, or the firefighter's or police officer's dependents, to 171  
compensation, medical, hospital, and nursing expenses, or 172  
payment of funeral expenses for disability or death due to a 173  
cardiovascular, pulmonary, or respiratory disease in the event 174  
of failure or omission on the part of the firefighter or police 175  
officer truthfully to state, when seeking employment, the place, 176  
duration, and nature of previous employment in answer to an 177  
inquiry made by the employer. 178

Before awarding compensation for disability or death under 179  
this division, the administrator shall refer the claim to a 180  
qualified medical specialist for examination and recommendation 181  
with regard to the diagnosis, the extent of disability, the 182  
cause of death, and other medical questions connected with the 183  
claim. A firefighter or police officer shall submit to such 184  
examinations, including clinical and x-ray examinations, as the 185  
administrator requires. In the event that a firefighter or 186  
police officer refuses to submit to examinations, including 187  
clinical and x-ray examinations, after notice from the 188  
administrator, or in the event that a claimant for compensation 189  
for death under this division fails to produce necessary 190  
consents and permits, after notice from the administrator, so 191  
that such autopsy examination and tests may be performed, then 192  
all rights for compensation are forfeited. The reasonable 193  
compensation of such specialists and the expenses of examination 194  
and tests shall be paid, if the claim is allowed, as part of the 195

expenses of the claim, otherwise they shall be paid from the surplus fund.	196 197
(X) (1) Cancer contracted by a firefighter: Cancer contracted by a firefighter who has been assigned to at least six years of hazardous duty as a firefighter constitutes a presumption that the cancer was contracted in the course of and arising out of the firefighter's employment if the firefighter was exposed to an agent classified by the international agency for research on cancer or its successor organization as a group 1 or 2A carcinogen.	198 199 200 201 202 203 204 205
(2) The presumption described in division (X) (1) of this section is rebuttable in any of the following situations:	206 207
(a) There is evidence that the firefighter's exposure, outside the scope of the firefighter's official duties, to cigarettes, tobacco products, or other conditions presenting an extremely high risk for the development of the cancer alleged, was probably a significant factor in the cause or progression of the cancer.	208 209 210 211 212 213
(b) There is evidence that shows, by a preponderance of competent scientific evidence, that exposure to the type of carcinogen alleged did not or could not have caused the cancer being alleged.	214 215 216 217
(c) There is evidence that the firefighter was not exposed to an agent classified by the international agency for research on cancer as a group 1 or 2A carcinogen.	218 219 220
(d) There is evidence that the firefighter incurred the type of cancer alleged before becoming a member of the fire department.	221 222 223
(e) The firefighter is seventy years of age or older.	224

(3) The presumption described in division (X) (1) of this section does not apply if it has been more than fifteen years since the firefighter was last assigned to hazardous duty as a firefighter.

(4) Compensation for cancer contracted by a firefighter in the course of hazardous duty under division (X) of this section is payable only in the event of temporary total disability, working wage loss, permanent total disability, or death, in accordance with division (A) or (B) (1) of section 4123.56 and sections 4123.58 and 4123.59 of the Revised Code.

(5) As used in division (X) of this section, "hazardous duty" has the same meaning as in 5 C.F.R. 550.902, as amended.

(Y) Silicosis: Silicosis means a disease of the lungs caused by breathing silica dust (silicon dioxide) producing fibrous nodules distributed through the lungs and demonstrated by x-ray examination, by biopsy or by autopsy.

(Z) Coal miners' pneumoconiosis: Coal miners' pneumoconiosis, commonly referred to as "black lung disease," resulting from working in the coal mine industry and due to exposure to the breathing of coal dust, and demonstrated by x-ray examination, biopsy, autopsy or other medical or clinical tests.

This chapter does not entitle an employee or the employee's dependents to compensation, medical treatment, or payment of funeral expenses for disability or death from silicosis, asbestosis, or coal miners' pneumoconiosis unless the employee has been subject to injurious exposure to silica dust (silicon dioxide), asbestos, or coal dust in the employee's employment in this state preceding the employee's disablement,

some portion of which has been after October 12, 1945, except as 254  
provided in division (E) of section 4123.57 of the Revised Code. 255

Compensation on account of silicosis, asbestosis, or coal 256  
miners' pneumoconiosis are payable only in the event of 257  
temporary total disability, permanent total disability, or 258  
death, in accordance with sections 4123.56, 4123.58, and 4123.59 259  
of the Revised Code. Medical, hospital, and nursing expenses are 260  
payable in accordance with this chapter. Compensation, medical, 261  
hospital, and nursing expenses are payable only in the event of 262  
such disability or death resulting within eight years after the 263  
last injurious exposure; provided that such eight-year 264  
limitation does not apply to disability or death occurring after 265  
January 1, 1976, and further provided that such eight-year 266  
limitation does not apply to any asbestosis cases. In the event 267  
of death following continuous total disability commencing within 268  
eight years after the last injurious exposure, the requirement 269  
of death within eight years after the last injurious exposure 270  
does not apply. 271

This chapter does not entitle an employee or the 272  
employee's dependents to compensation, medical, hospital and 273  
nursing expenses, or payment of funeral expenses for disability 274  
or death due to silicosis, asbestosis, or coal miners' 275  
pneumoconiosis in the event of the failure or omission on the 276  
part of the employee truthfully to state, when seeking 277  
employment, the place, duration, and nature of previous 278  
employment in answer to an inquiry made by the employer. 279

Before awarding compensation for disability or death due 280  
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 281  
administrator shall refer the claim to a qualified medical 282  
specialist for examination and recommendation with regard to the 283

diagnosis, the extent of disability, the cause of death, and 284  
other medical questions connected with the claim. An employee 285  
shall submit to such examinations, including clinical and x-ray 286  
examinations, as the administrator requires. In the event that 287  
an employee refuses to submit to examinations, including 288  
clinical and x-ray examinations, after notice from the 289  
administrator, or in the event that a claimant for compensation 290  
for death due to silicosis, asbestosis, or coal miners' 291  
pneumoconiosis fails to produce necessary consents and permits, 292  
after notice from the commission, so that such autopsy 293  
examination and tests may be performed, then all rights for 294  
compensation are forfeited. The reasonable compensation of such 295  
specialist and the expenses of examinations and tests shall be 296  
paid, if the claim is allowed, as a part of the expenses of the 297  
claim, otherwise they shall be paid from the surplus fund. 298

(AA) Radiation illness: Any industrial process involving 299  
the use of radioactive materials. 300

Claims for compensation and benefits due to radiation 301  
illness are payable only in the event death or disability 302  
occurred within eight years after the last injurious exposure 303  
provided that such eight-year limitation does not apply to 304  
disability or death from exposure occurring after January 1, 305  
1976. In the event of death following continuous disability 306  
which commenced within eight years of the last injurious 307  
exposure the requirement of death within eight years after the 308  
last injurious exposure does not apply. 309

(BB) Asbestosis: Asbestosis means a disease caused by 310  
inhalation or ingestion of asbestos, demonstrated by x-ray 311  
examination, biopsy, autopsy, or other objective medical or 312  
clinical tests. 313

(CC) COVID-19 contracted by an employee who was required 314  
to work outside of the employee's home: COVID-19 contracted by 315  
an employee who was required to work by the employee's employer 316  
outside of the employee's home during the emergency declared by 317  
Executive Order 2020-01D, issued March 9, 2020, constitutes a 318  
presumption, which may be refuted by affirmative evidence, that 319  
COVID-19 was contracted in the course of and arising out of the 320  
employee's employment outside of the employee's home. This 321  
division applies only to claims arising during the period of the 322  
emergency declared by Executive Order 2020-01D, issued on March 323  
9, 2020, and to claims arising during the fourteen-day period 324  
after that emergency ends. 325

All conditions, restrictions, limitations, and other 326  
provisions of this section, with reference to the payment of 327  
compensation or benefits on account of silicosis or coal miners' 328  
pneumoconiosis apply to the payment of compensation or benefits 329  
on account of any other occupational disease of the respiratory 330  
tract resulting from injurious exposures to dust. 331

The refusal to produce the necessary consents and permits 332  
for autopsy examination and testing shall not result in 333  
forfeiture of compensation provided the administrator finds that 334  
such refusal was the result of bona fide religious convictions 335  
or teachings to which the claimant for compensation adhered 336  
prior to the death of the decedent. 337

**Section 2.** That existing section 4123.68 of the Revised 338  
Code is hereby repealed. 339

**Section 3.** This act is hereby declared to be an emergency 340  
measure necessary for the immediate preservation of the public 341  
peace, health, and safety. The reason for such necessity is that 342  
immediate action is crucial to protecting the public health 343

during an outbreak of COVID-19. Therefore, this act shall go  
into immediate effect.

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